

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,179

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her ANFC benefits. The issues are whether the petitioner has an eligible child living in her home and whether members of her household complied with the requirements to participate in Reach Up.

FINDINGS OF FACT

Prior to July, 1997, the petitioner had been receiving ANFC for herself, her son, and her son's father for the time limit allowed a Group 3 household. As an unemployed parent, the son's father was required to participate in Reach Up.

On June 19, 1997, SRS removed the petitioner's son from the petitioner's home pursuant to a CHINS order and placed him in a foster home. This was not reported to DSW.

On July 23, 1997, the Department sent the petitioner two notices. One informed her that the father had failed to comply with Reach Up requirements and that unless he attended three meetings with Reach Up, the first of which was scheduled on September 2, 1997, the family's ANFC grant was subject to closure. That notice also informed the petitioner that for August, 1997, her ANFC benefits would be paid through vendors, and that as of September 1, 1997, her ANFC vendor payments would not be released until the father had attended the required meetings.

The second notice informed the petitioner that because of the father's Reach Up sanction, she (the petitioner) was required to register with Reach Up by August 4, 1997, or she could not be found eligible for ANFC, Food Stamps, and Medicaid.

On August 6, 1997, having heard nothing from the petitioner, the Department notified her that her ANFC benefits were being reduced by removing her needs from the grant (leaving only the child on the ANFC grant) because of her failure to register with Reach Up.

The father did not attend his scheduled Reach Up meeting on September 2, 1997. The Department heard nothing more from the petitioner until September 4, 1997, when the petitioner called her worker to discuss her case. It was apparently around this time that the Department learned that the petitioner's

child had been removed from her home in June. On September 5, it sent the petitioner a notice that her ANFC was being terminated effective September 15, 1997, because there was no longer an eligible child in the home. That same date the Department received a letter from the petitioner, dated September 4, 1997 (which it forwarded to the Board), stating that the petitioner wished to appeal the decision regarding her Reach Up registration.

At the hearing in this matter, held on October 3, 1997, the petitioner stated that she wished to appeal all of the Department's decisions. She did not dispute any of the factual bases of any of the Department's decisions in her case, but she maintains that she cannot control the actions of the father, who apparently is still residing with her.⁽¹⁾ She stated that she needed her ANFC benefits to maintain a home for the return of her child.

ORDER

The Department's decisions is affirmed.

REASONS

As noted above, the petitioner does not dispute the fact that the father did not participate in Reach Up as required. Under the regulations, this subjects the family to a "sanction". W.A.M. §§ 2350 and 2350.2.

W.A.M. § 2351.2(1)(d) provides that the sanction for an unemployed Group 3 parent who has received at least 13 months of ANFC is that the parent: "shall have his or her needs removed from the ANFC grant... and shall also have the vendor payment, three meetings per month, and monthly reporting sanctions imposed".

W.A.M. § 2351.2(3) provides:

In order to receive ANFC benefits, whether by vendor or direct payment of the remainder, the noncompliant parent must attend three meetings each month...to provide information and documentation necessary for the issuance of vendor payments and to compute any remaining balance. . . .

In light of the above, the decisions by the Department (dated July 23, 1997) to remove the father from the petitioner's ANFC grant, to place the grant on vendors, and to require the father to attend a meeting before releasing any payments must be affirmed.⁽²⁾

W.A.M. § 2343.2 provides that when the principal wage earner in an unemployed parent household is sanctioned, the second parent is required to participate in Reach Up, and that the second parent's failure to comply results in that parent being sanctioned according to the same provisions that apply to the principal wage earner. Inasmuch as the petitioner does not contest the factual basis of the Department's decision (i.e., that she did not register for Reach Up herself) the decisions to require her to register for Reach Up (dated July 23, 1997) and to remove her from the ANFC grant when she failed to register (dated August 6, 1997) must also be affirmed.⁽³⁾

Undoubtedly, however, the petitioner's most serious problem is the fact that her son is no longer living

in her home. In several past fair hearings the Board has exhaustively examined the issue of continuing ANFC benefits in cases in which children have been removed from an ANFC parent's home and placed in SRS custody pursuant to a CHINS order from the Family Court. See, e.g., Fair Hearings Nos. 12,265 and 12,296. The Board has held that when "legal custody", as defined in the CHINS statutes, has been "transferred" by the court from the recipient parent to SRS, and SRS then places the child in foster care, the recipient parent is no longer eligible for ANFC.

The ANFC regulations require an "eligible parent" to live in the same "home", "household", or "residence" as an "eligible child". W.A.M. §§ 2242.2 and 2302.1. W.A.M. § 2302.12 defines "home" as follows:

A "home" is defined as the family setting maintained, or in process of being established, in which the relative assumes responsibility for care and supervision of the child(ren). However, lack of a physical home (i.e. customary family setting), as in the case of a homeless family is not by itself a basis for disqualification (denial or termination) from eligibility for assistance.

The child(ren) and relative normally share the same household. A "home" shall be considered to exist, however, as long as the relative is responsible for care and control of the child(ren) during temporary absence of either from the customary family setting.

Inasmuch as the petitioner's child in this matter has not been living in the petitioner's home since June, and the petitioner has not had the legal responsibility for his care and control since that time, it must be concluded that the petitioner is no longer eligible for ANFC. Therefore, the Department's decision in this regard must also be affirmed.

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1. It appears from the petitioner's representations at the hearing that the father's continuing presence in her home is an issue in her son's CHINS proceedings.
2. The father can purge himself of the sanctions after two weeks of working a regular job or after two months of participating in a supervised search for employment and then working for two weeks at subsidized community service employment. WAM § 2351.2(4).
3. The petitioner can purge herself of these sanctions in the same manner as noted in footnote 2 (above).